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84-039/1

## ROUTING AND RECORD SHEET

SUBJECT: (Optional)

General Counsel

84 330

FROM:

Inspector General

EXTENSION

NO.

DATE

23 January 1984

STAT

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

Associate General Counsel  
for Intelligence Community  
Affairs

24/84

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28 JAN 1984

MEMORANDUM FOR: Associate General Counsel for  
Intelligence Community Affairs

FROM:

Inspector General

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SUBJECT: American Bar Association Questionnaire on  
Intelligence Community Oversight

REFERENCE: Your memorandum dated 13 January 1984,  
same subject

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Here are some personal thoughts on the questionnaire which  
you might consider. I have keyed them to the questionnaire  
itself. Thanks for asking for our views.

A. Criteria for Evaluation

1. There is no question that the activities of the intelligence agencies should be subject to congressional oversight. I sharply disagree, however, that the "intelligence budget should be subject, as at present, to the controls inherent in the authorization process." I have never understood why a budget has to be defended before two committees in each House. I think our authorization committees should focus on substance, less on programmatic and budgetary issues, and I think to the extent that they do focus on budgetary issues, they shrink their more fundamental responsibilities.

2. In general, I agree.

3. I agree.

4. I agree.

5. I am skeptical that such standards can be articulated or ever will be. More important than the setting of

standards is simply the continued presence of an oversight process. A widely shared understanding at senior levels in the intelligence community that we will be questioned about our activities is the most effective form of oversight I know.

6. The emphasis on "quality of the intelligence product" is useful. I think Congressional inspired "objective and independent reviews of intelligence collection, analysis, and reporting" is meddling and not likely to be very high quality in any event. I think the Congressional oversight mechanisms best serve the public interest when they concentrate on asking us perceptive and searching questions about what we are doing--not when they support creation of additional bureaucratic devices.

7. I have no view.

B. Specific Oversight Issues

1. Covert Action:

(a) The mechanisms in place to insure legality, feasibility, and desirability are adequate.

(b) All covert action proposals necessarily get careful review within the National Security Council policy apparatus. If CIA becomes "by default a policy-making institution," it is likely to be because others abdicate their responsibilities.

(c) I think the oversight within the Executive Branch and the Congress on "the way covert actions are carried out" is fully adequate.

(d) Additional oversight mechanisms are not required.

2. Sensitive Intelligence Collection:

This is a more difficult area. I think that the operational risks which often attend sensitive intelligence collection operations argue for more narrowly based oversight than is the case in covert action. I see no problems with the mechanisms which insure that these operations are carefully carried out or that they are worth the trouble. In my experience with some cases in these areas, there is by definition extra-careful review.

3. Operations Within the United States:

It seems to me that we are appropriately sensitive to issues relating to potential interference with individual rights in this country and that the mechanisms in place are performing well.

4. Quality of Intelligence:

It seems to me our analysis and reporting processes are as well insulated from political pressures or biases as it is reasonably possible to make them.

C. Possible Institutional Changes

1. Merger of the two oversight committees into one would probably result in a lower quality oversight mechanism. I say this because joint committees don't seem to be organizations which Senators and Congressmen aspire to join.

2. I see no point in a bipartisan National Intelligence Board within the Executive Branch. Oversight has got to be mostly a Congressional enterprise if it is going to be effective. More Executive Branch mechanisms may reassure the public for a time, but they are likely always to be ineffectual and, over the long haul, are unlikely to enhance public confidence.

3. Certainly if we did anything as silly as establish the proposed Board, we should limit its scope to oversight and propriety.

4. Not necessary.

5. Not necessary.

6. I don't agree. I think Senate confirmation of General Counsels and Inspector Generals is almost certain to reduce the quality of our oversight process, not increase it.

7. I think fixed terms of appointment anywhere within the government are a mistake. I certainly think the DCI should not serve for excessively long periods, however. Given recent history, I doubt we're in any danger of having a DCI hold his job for "too many" years.

8. I see no particular purpose in embodying the functions of the various intelligence agencies in a statutory "charter." Who would care? What problems would be averted or solved?

9. On the other hand, if there were any chance at all that reasonable "rules on the conduct of intelligence activities" could be placed in statute as opposed to executive order, a good deal of time could be saved for us all. Having activities as controversial as intelligence debated anew by each administration every four or eight years is very time-consuming, and rarely results in any significant change in the way we actually conduct our business. On the other hand, the debate does force all of us to face the questions once again and agree on the basics. Actually getting a President and a Congress to agree on a reasonable bill strikes me as a highly unlikely eventuality, however.

10. I see no point at all to the appointment of intelligence advisor separate from existing agencies. I don't think anybody would give him the time of day. This is a very old and tired idea, whose time has yet to come.



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